



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MAR 28 2009

**VIA ELECTRONIC AND U.S. MAIL**

Shane Novak  
Treasurer  
Green Party of Luzerne County, PA  
308 Spring Street  
Hanover Township, PA 18706

RE: MUR 5783  
Green Party of Luzerne County, PA

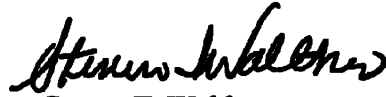
Dear Mr. Novak:

As you were previously notified, on May 9, 2007, the Federal Election Commission ("the Commission") found reason to believe that the Green Party of Luzerne County, PA and you in your official capacity as Treasurer ("Committee") violated 2 U.S.C. § 441a(a)(1) by making excessive in-kind contributions to Carl Romanelli for U.S. Senate, 11 C.F.R. § 106.6(b)(1)(i) by improperly allocating administrative expenses or, in the alternative, violated 11 C.F.R. §§ 102.5(a), 106.6(a), (c), and (e). After an investigation, on February 26, 2009, the Commission found reason to believe that the Committee also violated 2 U.S.C. § 441a(a)(1) by making excessive in-kind contributions to four other federal Green Party candidates, 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3(b) by failing to accurately disclose its disbursements in reports filed with the Commission, and 2 U.S.C. § 441b(a) by accepting a prohibited corporate contribution.

Enclosed are the Factual and Legal Analysis setting forth the basis of the additional reason to believe findings the Commission made on February 26, 2009

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On behalf of the Commission,

  
Steven T. Walther  
Chairman

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS: Green Party of Luzerne County, PA and  
Shane Novak, in his official capacity as Treasurer**

**MUR: 5783**

**I. INTRODUCTION**

William R. Caroselli alleges that the Green Party of Luzerne County, PA and Shane Novak, in his official capacity as Treasurer ("GPL"), Carl Romanelli for U.S. Senate and Shane Novak, in his official capacity as Treasurer ("the Romanelli Committee"), and Carl J. Romanelli violated the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically, the complaint asserts that GPL was created and operated as a way to funnel earmarked contributions to the Romanelli Committee by financing ballot access initiatives for Romanelli, and that GPL and the Romanelli Committee violated the Act by making and knowingly receiving excessive contributions.

As discussed in more detail below, the Commission finds reason to believe that: 1) GPL violated 2 U.S.C. § 441b(a) by accepting a prohibited corporate contribution; and 2) GPL violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3(b) by failing to accurately report its disbursements.

**II. FACTUAL SUMMARY**

**A. GPL'S STRUCTURE AND RELATIONSHIP TO THE ROMANELLI COMMITTEE**

In 2000, a small group of local activists formed GPL, located in Hanover Township, Pennsylvania. GPL registered with the Commission as a federal political committee in May 2006. See GPL Statement of Organization, filed May 26, 2006.

1        GPL is affiliated with the Green Party of Pennsylvania ("GPPA"). Although GPPA  
2 registered with the Commission in June 2006 as a political committee, *see* GPPA Statement of  
3 Organization, filed June 13, 2006, it never sought qualification as a state party under 11 C.F.R.  
4 § 100.14(a). In January 2007, GPPA terminated its registration, and the Commission approved  
5 such termination in February 2007.

6        Carl Romanelli has been GPL's Co-Chair since 2001. He ran for U.S. Senate in 2006,  
7 and his authorized committee, the Romanelli Committee, registered with the Commission in May  
8 2006. *See* Romanelli Committee, Statement of Organization, filed May 31, 2006. In its  
9 amended statement of organization, GPL reported that the Romanelli Committee was an  
10 affiliated committee.<sup>1</sup> *See* GPL Amended Statement of Organization, filed July 6, 2006.

11        When Romanelli decided to run for U.S. Senate in 2006, he learned he needed more than  
12 60,000 signatures to qualify for the ballot in Pennsylvania's general election and looked to the  
13 party for assistance.<sup>2</sup> However, according to Romanelli, GPPA was disorganized and had lost  
14 status as a party in Pennsylvania. Believing that GPL could assume the duties of the state party,  
15 Romanelli approached GPPA officials, who agreed that GPL would conduct all ballot  
16 qualification efforts for GPPA candidates. Supplemental Response of Carl J. Romanelli. GPL  
17 produced an affidavit, dated August 30 and September 4, 2007 and signed by the Chairperson  
18 and Treasurer of the Pennsylvania Green Party. *See* Affidavit of Paul Teese and Steven Baker.  
19 This affidavit averred that the GPPA agreed to assign all administrative and coordinated

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<sup>1</sup> Under 11 C.F.R. § 100.5(g)(5), no authorized committee can be affiliated with an entity that is not an authorized committee. Thus, GPL improperly listed the Romanelli Committee, the authorized committee for Romanelli's Senate campaign, as an affiliate in its amended Statement of Organization.

<sup>2</sup> Although Romanelli collected approximately 99,000 signatures, the Commonwealth Court of Pennsylvania ruled that the number of valid signatures fell 9,000 short of the total required and removed his name from the November ballot. *See In re: Nomination Paper of Marakay Rogers et al.*, 914 A.2d 451 (Pa. Commonw. Ct. 2006), *aff'd* 589 A.2d 503 (Pa. 2006); *see also Green Party Candidate is Off November Senate Ballot*, ROLL CALL, Oct. 5, 2006.

1 expenditures to GPL with respect to all federal candidates of the GPPA for the purpose of ballot  
2 qualification. *Id*

3 **B. FUNDRAISING AND SPENDING FOR 2006 BALLOT QUALIFICATION**

4 Romanelli led the efforts to finance the ballot access efforts. In the spring of 2006,  
5 Romanelli issued nationwide press releases soliciting funds on behalf of GPPA candidates,  
6 calling this plan his "brain child." From June through August 2006, GPL raised approximately  
7 \$155,000 in contributions. Romanelli credits the resulting press coverage for GPL's fundraising  
8 successes. GPL received virtually all of its contributions from individuals, with the exception of  
9 one \$2,000 contribution made by Mr. Sweep's Cleaning Company ("Mr. Sweep's Cleaning  
10 Co."), a Pennsylvania corporation.

11 GPL hired JSM Inc. for petitioning services to obtain ballot access for Pennsylvania  
12 Green Party candidates. Romanelli stated that he first heard about JSM in 2004 when the  
13 company qualified Ralph Nader. In April 2006, he found contact information for Jennifer  
14 Breslin, the Director and President of JSM, and called her about qualifying for the Pennsylvania  
15 ballot. Breslin initially quoted a price of \$500,000 for obtaining signatures. However,  
16 Romanelli doubted he could raise such funds, so the parties agreed to a "pay as you go"  
17 arrangement, although there was no written agreement.<sup>3</sup> Between June 5 and September 11,  
18 2006, GPL paid approximately \$88,000 for petitioning services to JSM.

19 Petitioning efforts focused on Romanelli; four House candidates, Dave Baker (2nd  
20 District), Titus North (14th District), Greta Browne (15th District), and Derf Maitland (19th  
21 District); and three non-federal candidates, Marakay Rogers (Governor), Christina Valente  
22 (Lieutenant Governor), and Katrina Heycock (General Assembly). *See* Amended 2006 July

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<sup>3</sup> JSM did not perform the petitioning services but retained a sub-contractor, YPM, LLC, to conduct the petitioning. As a result, although GPL wrote checks payable JSM, JSM transferred all funds to YPM.

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Quarterly Report, filed Aug. 27, 2006; Green Party of the United States, *Campaigns for House, Senate to Watch in 2006*, available at [www.gp.org/press/pr\\_2006-05-15.shtml](http://www.gp.org/press/pr_2006-05-15.shtml); Nominating Papers.

**C. REPORTING DISBURSEMENTS FOR BALLOT QUALIFICATION**

**1. 2006 July Quarterly Report**

In three different versions of its 2006 July Quarterly Report, GPL reported disbursements of \$66,000 that were made to JSM in three different ways.

- In the first 2006 July Quarterly Report, filed July 16, 2006, GPL reported \$66,000 as "Other Disbursements" on Line 29 and itemized the disbursements on Schedule B as payments to JSM for ballot qualification on behalf of Carl Romanelli.
- In its Amended 2006 July Quarterly Report, filed Aug. 27, 2006, GPL reported \$66,000 on Line 25 as "Coordinated Party Expenditures," disclosing five separate payments of \$13,200 on Schedule F as coordinated party expenditures on behalf of Romanelli and the four other Green Party candidates, Baker, Browne, Maitland, and North.
- In its second Amended 2006 July Quarterly Report, filed on Oct. 16, 2006, GPL reported the \$66,000 in disbursements on Line 21 as "Operating Expenditures" allocating \$4,620 for federal activity and \$61,380 for non-federal activity. GPL attached a Schedule H4, which disclosed five disbursements of \$13,200 for allocated federal and non-federal activity.

After receiving notice of the complaint in this matter, on August 23, 2006, Novak called the Commission's Reports and Analysis Division ("RAD") and stated that he thought that the disbursements to JSM should actually have been reported as coordinated party expenditures on behalf of Romanelli. In response, RAD informed Novak that GPL should have obtained written approval from a state or national party committee prior to making any coordinated expenditures, but that it was the committee's responsibility to determine whether the expenditures were coordinated. Approximately six weeks later, after receiving a Request for Additional Information stating that GPL must have been authorized to make coordinated party expenditures by state or national committee of political party, Novak claimed that GPL had approval from

1   GPPA since 2001 to conduct petitioning on behalf of Green Party candidates. RAD informed  
2   Novak that GPPA was not a registered political committee with the Commission until June 2006.

3       Although GPL submitted an affidavit signed by GPPA officials to demonstrate that GPL  
4   had authority to make coordinated expenditures, *see supra* Section II.A, the affidavit was dated  
5   August 30 and September 4, 2007, more than one year after GPL made its first payments to JSM  
6   Inc. for petitioning services in June 2006.<sup>4</sup> Romanelli stated that an attorney advised that the  
7   agreement was legal, but was unable to provide a written opinion or an affidavit to document the  
8   advice. GPL has provided no other documentation demonstrating that a state committee, as  
9   determined by the Commission under 2 U.S.C. § 431(15) and 11 C.F.R. § 100.14(a), authorized  
10   GPL to make coordinated party expenditures. Accordingly, GPL failed to establish that it  
11   received a valid assignment to make coordinated party expenditures as required by 11 C.F.R.  
12   § 109.33(a).

13       GPL next attempted to report the disbursements as allocable operating expenditures given  
14   that some non-federal candidates benefited from GPL's ballot qualification efforts.<sup>5</sup> After filing  
15   a second amended July Quarterly Report on October 16, 2006, Novak called RAD to inquire  
16   about his latest amendments. RAD explained that unless GPL had a non-federal account, it  
17   should not be making any entries in Schedule H4 reflecting allocable expenditures. Further,  
18   RAD stated that if GPL's expenditures were benefitting any federal candidates and were in-kind

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<sup>4</sup> Under 11 C.F.R. § 109.33(a), a state committee may assign its coordinated party expenditure authority to a subordinate committee, but such an assignment must be made in writing, must state the amount of the authority assigned, and must be received by the assignee committee before any coordinated party expenditures are made pursuant to the assignment. *Id.*

<sup>5</sup> Novak also claims that he called the Commission's Information Services Division and, when he explained the purpose of his \$66,000 expenditure, was informed that the expenditures should be reported as operating expenditures. However, Novak was unable to substantiate his claim.

contributions, Novak should report the expenditures as contributions to federal candidates on Line 23 of the report and that Novak would probably be hearing from the FEC again.

**2. 2006 October Quarterly Report**

GPL filed its 2006 October Quarterly Report on October 15, 2006 and reported \$34,000 in disbursements to JSM between July and August 2006 as coordinated party expenditures made on behalf of federal candidates Maitland, Baker, and North. However, it did not report two additional disbursements, totaling \$9,748, made by to JSM on August 31, 2006 and September 11, 2006.

**III. LEGAL ANALYSIS**

**A. RECEIPT OF CORPORATE CONTRIBUTION**

The Act prohibits a political committee from knowingly receiving a contribution from a corporation. 2 U.S.C. § 441b(a). Although the Commission previously did not find reason to believe that GPL violated section 441b(a), the investigation revealed that GPL received one \$2,000 contribution check from Mr. Sweep's Cleaning Co., a Pennsylvania corporation. Accordingly, the Commission finds reason to believe that GPL violated 2 U.S.C. § 441b(a) by accepting a prohibited corporate contribution.

**B. REPORTING VIOLATIONS**

The Act requires the treasurer of a political committee to file reports of receipts and disbursements. 2 U.S.C. § 434(a)(1); 11 C.F.R. § 104.1. The reports must accurately reflect the receipts and disbursements of the committee. 2 U.S.C. § 434(b)(2), (3). The Commission previously did not make reason to believe findings concerning reporting violations under 2 U.S.C. § 434(b). However, there is a sufficient basis for the Commission to find that there is



1 reason to believe that Respondents violated 2 U.S.C. § 434(b) by failing to accurately report their  
2 activities.

3 A portion of the \$88,000 in disbursements that GPL made to JSM were in-kind  
4 contributions to the federal Green Party candidates. In June 2006, GPL made two disbursements  
5 to JSM, a payment of \$24,000 on June 5, 2006 and \$20,000 on June 20, 2006, totaling \$44,000.  
6 Given that the disbursements were used on behalf of eight Green Party candidates, GPL should  
7 have divided each disbursement or check equally by eight. For amounts attributable to the five  
8 federal candidates, GPL should have reported \$27,500 on Line 23 for "Contributions to Federal  
9 Candidates/Committees." For amounts attributable to the three non-federal candidates, GPL  
10 should have reported \$16,500 on Line 29 for "Other Disbursements." In addition, GPL should  
11 have itemized these disbursements as in-kind contributions on Schedule B.

12 Between July and September 2006, GPL made six disbursements to JSM, totaling  
13 \$43,748. See Chart of GPL's Disbursements to JSM, Inc. In the subsequent 2006 October  
14 Quarterly Report, by dividing these disbursements equally among the eight candidates, GPL  
15 should have reported \$27,312.50 on Line 23 for "Contributions to Federal  
16 Candidates/Committees." For amounts attributable to the three non-federal candidates, GPL  
17 should have reported \$16,405.50 on Line 29 for "Other Disbursements." As it should have for  
18 the July Quarterly Report, GPL should have filed a Schedule B itemizing each disbursement as  
19 an in-kind contribution.

20 However, GPL failed to properly disclose the in-kind contributions by reporting \$66,000  
21 in disbursements to JSM as "Other Disbursements" on Line 29, "Coordinated Party  
22 Expenditures" on Line 25, and "Operating Expenditures" on Line 21 in the three versions of the  
23 2006 July Quarterly Reports filed with the Commission. See *supra* Section II.C.1. In its 2006

1 October Quarterly Report, GPL again failed to properly disclose its disbursements to JSM by  
2 reporting \$34,000 as coordinated party expenditures. *See supra* Section II.C.2. Accordingly, the  
3 Commission finds reason to believe that GPL violated 2 U.S.C. § 434(b) and 11 C.F.R.  
4 § 104.3(b).

5 **IV. CONCLUSION**

6 Based on the information described above, the Commission finds reason to believe that:

7 1) GPL violated 2 U.S.C. § 441b(a) by accepting a prohibited corporate contribution; and 2) GPL  
8 violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3(b) by failing to accurately report its  
9 disbursements.